

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

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In re:	:	
	:	Case No. 08-35653 (KRH)
CIRCUIT CITY STORES, INC., <u>et al.</u> ,	:	
	:	Chapter 11
	:	
Debtors.	:	(Jointly Administered)
	:	
	-X	

DECLARATION OF DANA E. FOSTER

I, Dana E. Foster, submit the following declaration in support of the Non-Parties Toshiba Corporation and Toshiba America Electronic Components, Inc.’s Opposition to Motion of the Circuit City Stores, Inc. Liquidating Trust to Enforce Terms of Confirmed Plan, for Protection from Foreign Subpoena Duces Tecum, and for Order to Show Cause as to Why Toshiba Should not be Held in Contempt.

1. I am a duly admitted member of the bar of the District of Columbia and the bar of the State of New York. I have an application pending for *pro hac vice* admission to the bar of the Bankruptcy Court for the Eastern District of Virginia. I am an attorney with the law firm of White & Case LLP, counsel for non-parties Toshiba Corporation and Toshiba America Electronic Components, Inc.

2. I have personal knowledge of the facts stated herein, and I could and would competently testify thereto if called as a witness.

3. On June 17, 2016, Andrew Caine with the law firm Pachulski Stang Ziehl & Jones LLP, general counsel to the Circuit City Stores, Inc. Liquidating Trust (the “Trust”), sent me an e-mail confirming that the subpoena was served on the Trust’s

Richmond counsel on June 16, 2016. Attached hereto as Exhibit 1 is a true and correct copy of the e-mail with attachment.

4. On June 21, 2016, I had a telephonic conference with Mr. Caine regarding the subpoena. During the call, Mr. Caine agreed that the Trust could produce documents responsive to the subpoena. He also raised the possibility of the Trust retaining Steve Deason to testify on behalf of the Trust. Mr. Deason is a former Circuit City employee, and he was Circuit City's Rule 30(b)(6) representative for depositions both in the federal CRT MDL matter and the federal LCD MDL matter.

5. On July 7, 2016, Mr. Caine e-mailed me a document entitled Responses and Objections of Alfred H. Seigel, Solely in His Capacity as Trustee for the Circuit City Stores, Inc. Liquidating Trust, to Foreign Subpoena/Subpoena Duces Tecum. Attached hereto as Exhibit 2 is a true and correct copy of the e-mail with attachment. Mr. Caine later confirmed that the Trust did not file this document either in the Richmond Circuit Court or in the United States Bankruptcy Court for the Eastern District of Virginia.

6. On July 26, 2016, I had another telephonic conference with counsel for the Trust, including Mr. Caine. During the call, counsel for the Trust indicated that it would be able to hire Mr. Deason as a consultant to act as the Circuit City corporate representative.

7. I have conferred with Blake Harrop, Senior Assistant Attorney General for the State of Illinois, regarding the use of the federal CRT MDL depositions in the Illinois state court action. Mr. Harrop has taken the position that all depositions taken in the federal MDL proceedings are "discovery" depositions which, under Illinois law, have limited admissibility at trial.

I declare under penalty of perjury under the laws of the United States of America
that the foregoing is true and correct.

Executed this 12th day of August, 2016, in Washington, D.C.



Dana E. Foster